UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/440,692	11/16/1999	TETSURO MOTOYAMA	5244-0104-2X	3301

22850   7590   09/30/2009
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
ZIA, SYED

ART UNIT	PAPER NUMBER
2431	

NOTIFICATION DATE	DELIVERY MODE
09/30/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

PTOL-90A (Rev. 04/07)

1   RECORD OF ORAL HEARING

2   UNITED STATES PATENT AND TRADEMARK OFFICE

3   _____

4   BEFORE THE BOARD OF PATENT APPEALS

5   AND INTERFERENCES

6   _____

7   *EX PARTE* TETSURO MOTOYAMA, AVERY FONG, YEVGENIYA
8   LYAPUSTINA
9   _____

10   Appeal 2009-002470
11   Application 09/440,692
12   Technology Center 2400
13   _____

14   Oral Hearing Held: September 9, 2009

15   _____

16 Before JOHN A. JEFFERY, ST. JOHN COURTENAY, III, and STEPHEN
17 C. SIU, *Administrative Patent Judges.*
18

19

20 APPEARANCES:

21 ON BEHALF OF THE APPELLANTS:

22   SURINDER SACHAR, ESQUIRE
23   Oblon, Spivak, McClelland, Maier & Neustadt, L.L.P.
24   1940 Duke Street
25   Alexandria, Virginia 22314-2875
26
27
28
29
30
31
32

1   The above-entitled matter came on for oral hearing on Wednesday,

2   September 9, 2009, at The U.S. Patent and Trademark Office, 600 Dulany

3   Street, Alexandria, Virginia, before Dawn A. Brown, Notary Public.

4

5   THE USHER: Good morning. Calendar Number 10, Appeal Number

6   2009-002470. Mr. Sachar.

7   JUDGE JEFFERY: Thank you very much. Good morning.

8   MR. SACHAR: Good morning, Your Honors.

9   JUDGE JEFFERY: You've got 20 minutes and you can begin when

10   you're ready.

11   MR. SACHAR: Thank you. This case is directed to a system or

12   method that monitors usage of an interface by a user and that specifically

13   monitors, logs and communicates what operations on the interface the user

14   selects.

15   The idea behind the invention is to be able to improve interface design

16   by actually keeping a record of what buttons, for example, a user will select on

17   an interface.

18   One example we give is that the interface could be an operation panel of

19   a copy machine, fax machine, that type of device or an operation panel of an

20   appliance. And what this invention does is it monitors what buttons on that

21   interface the user presses. It can monitor also the order they're selected, etc.

22   So you have that data. That data gets collected, logged, it can be

23   encoded and other things. And then it gets communicated to an external point.

1   So at that external point, the designer of an interface can evaluate that

2   log and can see, oh, the user pressed these buttons in this order, these were the

3   most popular buttons, etc. So that can be used for the design of the interface.

4   Each of the rejections relies on the reference to Frantz as the primary

5   reference. It specifically relies on Frantz to disclose the interface and the

6   monitoring, logging and communicating of the data.

7   The error in the rejection is that that primary reference to Frantz does

8   not monitor what operations a user is selecting on the interface. Frantz is

9   directed to providing a communication interface between an equipment.

10   Frantz gives an example of the equipment as a telephone switching device.

11   And when that equipment generates an error, the device of Frantz can sense

12   that error at the interface and it can communicate that error to an operator. The

13   operator can then evaluate the error and the operator can possibly even through

14   the interface, you know, take some actions there to correct the error.

15   So what Frantz is monitoring and communicating is an actual error in

16   the device that it is connected to. What we're monitoring and communicating

17   is what operations a user selects on an interface.

18   The reference sort of specifically refers to Frantz with respect to -- the

19   phrase that Frantz uses is an activation criteria. And at one point, the rejection

20   indicates that Frantz monitors an activation criteria.

21   Well, what the activation criteria in Frantz is the specifics that will result

22   in communicating the data. So if an error is of a certain level, it can

23   communicate the data immediately. If the error is not of a certain level, it

24   doesn't have to communicate it immediately.

3

1   The activation criteria that the Office Action cites with respect to our

2 operations are not operations that are selected by a user that are then monitored

3 and logged. In other words, Frantz doesn't communicate the activation; what

4 Frantz communicates is the error in the switching device.

5   JUDGE JEFFERY: But counsel, the activation criteria doesn't have to

6 be limited to errors, does it?

7   MR. SACHAR: The activation criteria, it is my understanding as Frantz

8 discloses is the criteria that will result in the communication.

9   JUDGE JEFFERY: Well, I'm looking at column 5 where it says the

10 activation criteria can be set to an alert mode where only emergency system

11 messages, such as critical error messages. So it sort of -- the error messages

12 are exemplary.

13   And then the maintenance mode has a number of different types of

14 things that could be looked at and interrupts register contents, memory

15 mapping, memory contents, so on and so forth. Why are those not operations?

16 I mean, I hear a distinction here between errors and operations in terms of

17 being selectable.

18   MR. SACHAR: What we are monitoring are the operations that a user

19 selects on the interface. So if you were going to try to equate the activation

20 criteria to that, then you would have to monitor what the activation criteria is.

21   JUDGE JEFFERY: Okay. So I select maintenance mode and that gives

22 me certain things.

23   MR. SACHAR: You select maintenance mode. Exactly. So if certain

24 errors arise, those errors will be sent.

25   JUDGE JEFFERY: Or certain -- I don't think it is limited to errors.

1   MR. SACHAR: It can be the status.

2   JUDGE JEFFERY: Memory contents. There is a whole laundry list of

3 things in column 5.

4   MR. SACHAR: So you select activation mode. What our device

5 does is it monitors that you selected activation mode. That is the operation

6 on the interface that you selected. That is what we're monitoring.

7   JUDGE JEFFERY: I see.

8   MR. SACHAR: So in other words in Frantz, they don't send an e-mail

9 saying you selected the maintenance mode as your activation criteria. That is

10 what we're concerned about is what operations you select on that interface.

11   JUDGE COURTENAY: So if I'm using a printer, you're monitoring

12 anything that I do on the printer panel?

13   MR. SACHAR: Yes. We're monitoring, say, the number of copies, the

14 toner select, etc. We're not monitoring -- for example, other devices -- and

15 Frantz even I think discusses being able to monitor the -- it can be in the

16 context of an image-forming device that monitors the toner. We're not

17 monitoring the toner; we're monitoring what buttons you select on the

18 operation panel.

19   And that is the fundamental difference between our invention and the

20 way Frantz is being applied against the claims.

21   JUDGE COURTENAY: Okay. So your claim -- the scope of your

22 claim, anything that is selected -- any one of a plurality of operations is

23 selected by the user and an interface is monitored by your monitoring device.

24   MR. SACHAR: Yes, that is correct. And for those reasons, we think

25 that the rejections are improper.

1   JUDGE JEFFERY: Anything further, counsel?

2   MR. SACHAR: No, I have nothing further.

3   JUDGE JEFFERY: Thank you very much.

4   MR. SACHAR: Thank you very much for your time.

5

6   (Whereupon, the proceedings were concluded on Wednesday,

7   September 9, 2009.)

8